

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROBERT BARNARD and BRYAN)
AHRENS, On Behalf of)
Themselves and on Behalf of)
All Others Similarly Situate)

Plaintiffs,)

VS.)

CIVIL ACTION NO. 4:11-CV-02198

INTERTEK USA INC D/B/A)
INTERTEK CALEB BRETT,)

Defendant.)

* * * * *

ORAL DEPOSITION OF

ROBERT W. BARNARD

APRIL 17, 2012

* * * * *

ORAL DEPOSITION OF ROBERT W. BARNARD,

produced as a witness at the instance of the
Defendant, and duly sworn, was taken in the
above-styled and numbered cause on the 17th day of
April, 2012, from 10:11 a.m. to 3:48 p.m., before
Linda S. Partida, CSR, in and for the State of Texas,
reported by computerized stenotype machine at the
offices of Kennedy Hodges, L.L.P., 711 West Alabama
Street, Houston, Texas, pursuant to the Federal Rules
of Civil Procedure (and the provisions stated on the
record or attached therein.)

EXHIBIT "2"

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<p>1 answered.</p> <p>2 A. No, no preference.</p> <p>3 Q. (BY MS.SHIRODKAR) You just tend to go to</p> <p>4 whoever's got the cheapest gas and a convenient</p> <p>5 location?</p> <p>6 A. Mostly a convenient location. I mean,</p> <p>7 in -- just a convenient location is most important.</p> <p>8 Q. Okay.</p> <p>9 Now, how frequently do you have</p> <p>10 maintenance performed on your car?</p> <p>11 A. Every 3,000 miles.</p> <p>12 Q. How many --</p> <p>13 A. No. Every 5,000 miles. Excuse me.</p> <p>14 Q. And, so, have you -- when's the last time</p> <p>15 you took your car into the shop?</p> <p>16 A. Last month.</p> <p>17 Q. Why did you do that?</p> <p>18 A. For my 5,000-mile oil change.</p> <p>19 Q. Do you remember how much that cost you?</p> <p>20 A. Nothing.</p> <p>21 Q. Did they do it for free, or --</p> <p>22 A. Yeah. It's included with my warranty.</p> <p>23 Q. Okay.</p> <p>24 Now, how much does your car insurance</p> <p>25 cost?</p>	<p>1 anything like that.</p> <p>2 Q. (BY MS.SHIRODKAR) Would you say less than a</p> <p>3 hundred a month?</p> <p>4 A. Probably less than a hundred a month,</p> <p>5 because it's a new vehicle. I don't have any</p> <p>6 problems with it.</p> <p>7 MR. KENNEDY: And I'm going to object</p> <p>8 as vague, calls for speculation.</p> <p>9 Q. Would you say more than 50 a month?</p> <p>10 MR. KENNEDY: Calls for speculation.</p> <p>11 A. I -- I don't have any receipts in front of</p> <p>12 me; so, I wouldn't know the exact dollar figure.</p> <p>13 Q. (BY MS.SHIRODKAR) Now, does Intertek</p> <p>14 reimburse you for your mileage?</p> <p>15 A. Only if we drive out of town.</p> <p>16 Q. Outside of Houston, or is there --</p> <p>17 A. Outside of Houston, yes.</p> <p>18 Q. Is there any mile limit that is put, you</p> <p>19 know -- strike that.</p> <p>20 Is there any mile -- mileage that's</p> <p>21 done in accordance with that out of town, out of</p> <p>22 Houston?</p> <p>23 A. Yeah, 30 cents a mile for every mile drove</p> <p>24 outside of Houston area.</p> <p>25 Q. And, so, let's say -- Houston's pretty big.</p>
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<p>1 MR. KENNEDY: Objection. Vague as to</p> <p>2 time.</p> <p>3 A. A hundred and fifty dollars a month.</p> <p>4 Q. (BY MS.SHIRODKAR) Okay.</p> <p>5 Now, do you also have commercial</p> <p>6 liability insurance on your vehicle?</p> <p>7 A. No.</p> <p>8 Q. Is there any type of insurance that you've</p> <p>9 had to purchase on your vehicle as a requirement for</p> <p>10 working for Intertek?</p> <p>11 A. I have to keep liability insurance on my</p> <p>12 vehicle.</p> <p>13 Q. And is that the same you would have if it</p> <p>14 was, you know, you weren't working for Intertek?</p> <p>15 A. Yeah.</p> <p>16 Q. Now, how much are your vehicle registration</p> <p>17 fees?</p> <p>18 A. Sixty-something dollars a month -- I mean a</p> <p>19 year.</p> <p>20 Q. Now, what's the cost of wear and tear on</p> <p>21 your vehicle?</p> <p>22 MR. KENNEDY: Objection. Vague, calls</p> <p>23 for speculation.</p> <p>24 A. I don't know. I don't have an answer for</p> <p>25 that. I'd have to look back at all my receipts for</p>	<p>1 Let's say you live in one part.</p> <p>2 Is it also you get paid for miles</p> <p>3 outside of Houston; or you get paid for miles you</p> <p>4 drive over 10, 20?</p> <p>5 MR. KENNEDY: Objection. Vague, calls</p> <p>6 for speculation.</p> <p>7 A. Just anything considered to be out of town</p> <p>8 would be mileage that you would track as 30 cents a</p> <p>9 mile.</p> <p>10 Q. (BY MS.SHIRODKAR) Okay. And I -- I guess,</p> <p>11 my question, then -- let me rephrase it, because it's</p> <p>12 not clear -- is, you know, you've defined out of town</p> <p>13 as out of Houston.</p> <p>14 But what I'm saying: Is there a</p> <p>15 corresponding mile limit; like, if you're driving</p> <p>16 over 20 miles, that's when you'll get mileage</p> <p>17 reimbursement?</p> <p>18 A. No.</p> <p>19 MR. KENNEDY: Objection. Vague, calls</p> <p>20 for speculation.</p> <p>21 A. No.</p> <p>22 Q. (BY MS.SHIRODKAR) Okay.</p> <p>23 And you said -- I'm sorry. You said</p> <p>24 how much does Intertek reimburse you per mile?</p> <p>25 A. Thirty cents a mile.</p>

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<p>1 Q. (BY MS.SHIRODKAR) Okay.</p> <p>2 Now, has Intertek ever paid you more</p> <p>3 than what you incur in vehicle expenses?</p> <p>4 A. Sometimes, yes.</p> <p>5 Q. And how much more?</p> <p>6 A. Well, they pay us \$30 a day; and sometimes</p> <p>7 I don't use near that for gas.</p> <p>8 Q. And, so --</p> <p>9 A. But we're not required to report the</p> <p>10 mileage.</p> <p>11 Q. So, have you ever given that excess amount</p> <p>12 back?</p> <p>13 A. No.</p> <p>14 Q. And why is that?</p> <p>15 A. Because it's an incentive that -- we've</p> <p>16 been told it's an incentive pay for your shift.</p> <p>17 Q. So, even though it doesn't cover your --</p> <p>18 even though it's excessive, you still --</p> <p>19 A. It not considered for our mileage. It's</p> <p>20 considered an incentive pay.</p> <p>21 Q. Okay.</p> <p>22 Now, what -- what -- what do you mean</p> <p>23 an incentive pay?</p> <p>24 A. It's a flat fee for \$25 for miles and a</p> <p>25 flat fee for meals, \$5.</p>	<p>1 changed.</p> <p>2 Q. Well, let me ask you this.</p> <p>3 Do you find yourself having to pay</p> <p>4 more than what you're getting back when it re -- when</p> <p>5 it comes to your keeping up with your car --</p> <p>6 A. No.</p> <p>7 Q. -- things like that?</p> <p>8 A. No.</p> <p>9 Q. Okay.</p> <p>10 Do you think the auto allowance should</p> <p>11 be lower than the amount of money they give you?</p> <p>12 MR. KENNEDY: Objection. Vague, calls</p> <p>13 for speculation.</p> <p>14 A. No.</p> <p>15 Q. (BY MS.SHIRODKAR) Do you think it should be</p> <p>16 higher?</p> <p>17 MR. KENNEDY: Same objection.</p> <p>18 A. No.</p> <p>19 Q. (BY MS.SHIRODKAR) Okay.</p> <p>20 Now, have you ever complained to</p> <p>21 Intertek about the auto allowance?</p> <p>22 A. No.</p> <p>23 Q. Okay.</p> <p>24 Do you know anyone who's complained to</p> <p>25 Intertek about the auto allowance?</p>
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<p>1 Q. Okay.</p> <p>2 A. Total of \$30.</p> <p>3 Q. Okay.</p> <p>4 And in general, you had talked about</p> <p>5 the auto allowance being, I think, 350 a month; is</p> <p>6 that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 Now, in general, do you think that</p> <p>10 auto allowance is too high, too low, just right?</p> <p>11 MR. KENNEDY: Objection. Vague. You</p> <p>12 need to clarify the context of your question. Are</p> <p>13 you corresponding it to his actual expenses? Are you</p> <p>14 asking his personal opinion if it's enough to</p> <p>15 compensate him for his work?</p> <p>16 Q. (BY MS.SHIRODKAR) In general, given your</p> <p>17 expenses, do you think that the auto allowance that</p> <p>18 Intertek pays you is too low, too high; or is it</p> <p>19 about right?</p> <p>20 A. Just the auto allowance --</p> <p>21 MR. KENNEDY: Same objections.</p> <p>22 A. -- alone?</p> <p>23 Q. (BY MS.SHIRODKAR) Just the auto allowance.</p> <p>24 A. That, I really have no opinion on it. It's</p> <p>25 just the same amount it's always been; so, it hasn't</p>	<p>1 A. No.</p> <p>2 Q. Now, are you required to submit</p> <p>3 documentation to receive the auto allowance?</p> <p>4 A. No.</p> <p>5 Q. Okay.</p> <p>6 And what about the mileage</p> <p>7 reimbursement, are you required to submit</p> <p>8 documentation for that?</p> <p>9 A. Only when we make long trips out of town.</p> <p>10 In -- inside the Houston area, no.</p> <p>11 Q. Okay.</p> <p>12 So, if you're working inside the</p> <p>13 Houston area, you get a flat rate for mileage; is</p> <p>14 that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 And what -- how much is that?</p> <p>18 A. Twenty-five dollars for gas, \$5 for a meal</p> <p>19 every day.</p> <p>20 Q. Okay.</p> <p>21 And it's only when you leave Houston,</p> <p>22 that's when you have to provide paperwork --</p> <p>23 A. Yes.</p> <p>24 Q. -- to get a reimbursement?</p> <p>25 A. Yes.</p>

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<p>1 to give us.</p> <p>2 Q. (BY MS.SHIRODKAR) Okay.</p> <p>3 And I'm asking, in your opinion, if</p> <p>4 they -- the meal reimbursement could be raised to \$7,</p> <p>5 would that be an adequate reimbursement of your</p> <p>6 expenses?</p> <p>7 A. If they gave me \$7 a day, I would accept</p> <p>8 it. If they give me \$5 a day, I accept it.</p> <p>9 That's -- it's what it is.</p> <p>10 Q. Okay.</p> <p>11 And how often a week do you take a --</p> <p>12 a meal break?</p> <p>13 A. Two, three times a week. I usually</p> <p>14 normally wait till I get home.</p> <p>15 Q. Okay.</p> <p>16 A. I don't eat at work.</p> <p>17 Q. And what documents do you have to submit to</p> <p>18 receive the meal reimbursement?</p> <p>19 A. None.</p> <p>20 Q. So, does it depend on where -- where you're</p> <p>21 working as to whether you have to submit receipts?</p> <p>22 A. No. You're not required to submit a</p> <p>23 receipt for your meal or your flat mileage. You</p> <p>24 don't have to keep up with any of that.</p> <p>25 Q. And have you ever submitted receipts for</p>	<p>1 Now, have you ever complained to</p> <p>2 Intertek about the meal allowance?</p> <p>3 A. No.</p> <p>4 Q. Do you know anyone who has complained about</p> <p>5 that meal allowance?</p> <p>6 A. No.</p> <p>7 Q. Okay.</p> <p>8 Now, we're going to talk a little bit</p> <p>9 about timekeeping.</p> <p>10 You're responsible for tracking your</p> <p>11 own -- own time and reporting your own time; is that</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Now, how do you report your time each week?</p> <p>15 A. On a time sheet.</p> <p>16 Q. Is that electronic; or is that a -- like, a</p> <p>17 hard copy?</p> <p>18 A. It's a written hard copy.</p> <p>19 Q. Okay.</p> <p>20 Now, do you understand that the</p> <p>21 company's payroll department pays you based on the</p> <p>22 hours that you report every week?</p> <p>23 A. Yes.</p> <p>24 Q. And, so, you understand that, if you want</p> <p>25 to be paid -- if you want to be paid for the hours,</p>
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<p>1 meals?</p> <p>2 A. Only on trips where I went out of town.</p> <p>3 Q. And why did you do that?</p> <p>4 A. Because I got the full reimbursement for my</p> <p>5 meals, whatever they cost --</p> <p>6 Q. If --</p> <p>7 A. -- under \$25.</p> <p>8 Q. If it was over \$5?</p> <p>9 A. If it was under \$25, I can eat a meal out</p> <p>10 of -- when I went out of town --</p> <p>11 Q. Uh-huh.</p> <p>12 A. -- I could order a meal that was under \$25.</p> <p>13 They would reimbursement for it.</p> <p>14 Q. And did they have to see a receipt for you</p> <p>15 to get reimbursed for that?</p> <p>16 A. Yes.</p> <p>17 Q. So, it -- am I -- is it a fair statement</p> <p>18 that, if you are -- if you want to be reimbursed for</p> <p>19 meals you eat when you're out of town working, you</p> <p>20 have to provide the receipts?</p> <p>21 A. Yes.</p> <p>22 Q. But when you're working in and around</p> <p>23 Houston, you don't have to do that?</p> <p>24 A. No.</p> <p>25 Q. Okay.</p>	<p>1 you have to report those hours?</p> <p>2 A. Yes.</p> <p>3 Q. And conversely, if you don't report your</p> <p>4 hours, you wouldn't be paid for those. Do you --</p> <p>5 A. Yes.</p> <p>6 Q. -- understand that?</p> <p>7 And, so, you understood it's important</p> <p>8 to be truthful when you're --</p> <p>9 A. Yes.</p> <p>10 Q. -- reporting your hours to the company?</p> <p>11 A. Yes.</p> <p>12 Q. And that they trust you to be truthful in</p> <p>13 filling out your time sheets accurately and</p> <p>14 correctly?</p> <p>15 A. Yes.</p> <p>16 Q. Now, have you always told the truth on your</p> <p>17 time sheets?</p> <p>18 A. Yes.</p> <p>19 Q. Now, how do you keep track of the hours you</p> <p>20 work?</p> <p>21 A. Well, we work a 12-hour shift from 6:00 to</p> <p>22 6:00; so, we're -- I show up at 5:30, and we clock</p> <p>23 out at 6:00. But our time doesn't start till 6:00,</p> <p>24 we've been told, and doesn't end -- and it ends at</p> <p>25 6:00. So, we write up from 6:00 to 6:00.</p>

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<p>1 Q. (BY MS.SHIRODKAR) Go ahead.</p> <p>2 A. I guess your car allowance would be for the</p> <p>3 wear and tear.</p> <p>4 Q. Okay.</p> <p>5 So, the \$25 is just for gas; is that</p> <p>6 correct?</p> <p>7 MR. KENNEDY: Objection. Calls for</p> <p>8 speculation.</p> <p>9 A. I don't know. I -- I've -- I've been told</p> <p>10 it's not an expense. It's an incentive pay.</p> <p>11 Q. (BY MS.SHIRODKAR) Okay.</p> <p>12 What else does Intertek reimburse you</p> <p>13 for? Meals, gas, anything else?</p> <p>14 A. Tolls, you went over the toll bridge and</p> <p>15 back.</p> <p>16 Q. What else?</p> <p>17 A. That's about it. Miscellaneous things like</p> <p>18 boots, stuff like that.</p> <p>19 Q. If you're traveling, will they reimburse</p> <p>20 you for hotel stay?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 Now, how do you submit your expenses</p> <p>24 to Intertek for reimbursement?</p> <p>25 A. On a normal basis, every day, you fill out</p>	<p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 Now, has there ever been a time when</p> <p>4 Intertek has refused to reimburse you for an expense?</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. Okay.</p> <p>7 Now, I'm going to hand you Intertek</p> <p>8 26119 through 26133.</p> <p>9 MS.SHIRODKAR: Let me give that to her</p> <p>10 first to mark, and let me give this one to your</p> <p>11 attorney.</p> <p>12 (Exhibit 8 marked)</p> <p>13 Q. (BY MS.SHIRODKAR) Now, please review those</p> <p>14 that I've just handed to you; and let me know if</p> <p>15 these are copies of your expense reports from</p> <p>16 September, 2011, through January, 2012.</p> <p>17 A. I couldn't tell you. These are -- they</p> <p>18 have my name on them, but I didn't sign these. These</p> <p>19 are reports from our office, I'm assuming from --</p> <p>20 that they get from my job vouchers. They reflect our</p> <p>21 incentive pay plus the meals --</p> <p>22 Q. Now --</p> <p>23 A. -- the \$25 plus meals.</p> <p>24 Q. -- any reasons to believe these aren't</p> <p>25 copies of your expenses for that time period?</p>
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<p>1 your time sheet and put down \$5 for a meal, \$25 for</p> <p>2 flat mileage.</p> <p>3 Q. So, do you submit expense reports?</p> <p>4 A. No. It's on your time sheet.</p> <p>5 Q. Okay.</p> <p>6 Do you submit job vouchers?</p> <p>7 A. Yes, a job voucher.</p> <p>8 Q. Okay.</p> <p>9 A. It's called a time sheet slash job voucher.</p> <p>10 That's our job voucher for the day.</p> <p>11 Q. And that keeps track of the time you've</p> <p>12 worked and your --</p> <p>13 A. Yes.</p> <p>14 Q. -- expenses?</p> <p>15 And do you submit them electronically?</p> <p>16 A. No. Manually, just handwritten.</p> <p>17 Q. Who do you hand them in to?</p> <p>18 A. To the supervisor.</p> <p>19 Q. Okay.</p> <p>20 Now, how often do you submit the job</p> <p>21 vouchers?</p> <p>22 A. Every day.</p> <p>23 Q. Every day.</p> <p>24 And do you sign them every time you</p> <p>25 submit them?</p>	<p>1 MR. KENNEDY: Objection. Vague.</p> <p>2 A. Other than just you showing them to me, I</p> <p>3 can't deny they are or are not.</p> <p>4 Q. (BY MS.SHIRODKAR) Okay.</p> <p>5 Now, whose initials are those at the</p> <p>6 bottom of the page?</p> <p>7 A. I do not know.</p> <p>8 Q. You don't know?</p> <p>9 I think it's C.J. Do you know anyone</p> <p>10 with those initials?</p> <p>11 A. They could be C.G.</p> <p>12 MR. KENNEDY: Calls for speculation.</p> <p>13 Q. (BY MS.SHIRODKAR) Do you know anyone with</p> <p>14 those initials?</p> <p>15 A. I'm assuming it -- it's our person that</p> <p>16 turns in our times --</p> <p>17 Q. Okay.</p> <p>18 A. -- Cherrie, Cherrie Smith. But that don't</p> <p>19 look like an S.</p> <p>20 Q. Okay.</p> <p>21 Now, if you --</p> <p>22 A. So --</p> <p>23 Q. Oh, sorry.</p> <p>24 A. -- it could be anybody.</p> <p>25 Q. Now, if you look at the first page, that's</p>

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<p>1 for your mileage -- 2 A. Yes. 3 Q. -- in the total amount? 4 A. Yes. 5 Q. And how does Intertek know exactly what 6 that mileage is? 7 MR. KENNEDY: Objection. Calls for 8 speculation. 9 A. I just give them my odometer readings start 10 to finish from when I leave the office till when I 11 arrive back to the office. 12 Q. (BY MS.SHIRODKAR) Okay. 13 Now, if you'll look at the next page, 14 which is Intertek 26124, are these receipts that you 15 turned in? 16 A. Yes. 17 Q. Okay. 18 Now, what did you get in that bottom 19 right corner from Popeye's for \$75? Was that just a 20 meal for you? 21 A. No. It was chicken for everybody -- 22 Q. And who is everybody? 23 A. -- at the terminal. 24 There was a bunch of operators I'd 25 worked with. I called my supervisor; and he said it</p>	<p>1 A. Oh, okay. 2 Q. -- ninety-six -- 3 A. Okay. Okay. "Employee meals: Out of town 4 meals," yes. 5 Q. So, is it your understanding that, while 6 you're out of town, you receive full reimbursement 7 for meals? 8 A. Yes. 9 Q. But you only get \$5 a day for meals when 10 you're not out of town? 11 A. Yes. 12 Q. Now, similarly, you received full 13 mileage -- I think, if you look one down, "Trip to -- 14 Mileage, Gas, & Tolls: Trip to San Angelo, Texas" -- 15 A. Yes. 16 Q. -- for about \$370. 17 A. Yes. 18 Q. A little more. 19 MR. KENNEDY: Object. It assumes 20 facts not in evidence when you refer to full mileage 21 reimbursement. 22 Go ahead. 23 Q. (BY MS.SHIRODKAR) Now, you got your mile -- 24 your actual mileage for that trip to San Angelo -- San 25 Angelo, Texas; but you just receive the flat mileage</p>
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<p>1 was okay, because I hadn't spent very much money on 2 meals at all in the four days I was there. I could 3 have wrote up \$75 a day, anyway. 4 Q. And, so, did you get fully reimbursed for 5 the seventy-four fifty-seven? 6 A. Yes. 7 Q. Okay. 8 A. I believe I did. I don't know. 9 Q. Okay. 10 Now, let's look at Intertek twenty -- 11 A. I'd have to look. Yeah. 12 Q. Now, let's look at Intertek 26130; and that 13 should be dated January 17th, 2012. 14 A. Yes. 15 Q. And I want to draw your attention to where 16 it says, on January 11th, 2012, "Employee meals: Out 17 of town meals, fifty-five ninety-nine." 18 A. Where? 19 Q. It's about, I'd say -- 20 A. Employee meals? 21 Q. -- halfway down that -- 22 A. Fifty-five ninety-nine? 23 Q. Yes. 24 A. That says, "Best Western Hotel." 25 Q. I think Best Western is for --</p>	<p>1 rate for days that you're in the Houston area? 2 MR. KENNEDY: Objection. Compound and 3 assumes facts not in evidence. 4 Go ahead. 5 A. Yeah, when we make a trip out of town, we 6 get 30 cents a mile. 7 Q. (BY MS.SHIRODKAR) Okay. 8 A. And on the days that we're in tow -- in the 9 Houston area, we get a flat rate of \$25 a day -- 10 Q. Okay. 11 A. -- for incentives. 12 Q. And what are those incentives? 13 A. I assume for whatever you want to spend it 14 on, I guess, as long as you've got gas to get you 15 back and forth to work. 16 Q. Okay. 17 Now, let me hand you another stack of 18 papers. 19 MR. KENNEDY: Finished with that one? 20 MS.SHIRODKAR: Yes. 21 Q. I'm going to hand you now what's marked 22 Intertek 13531 through 13566. 23 MS.SHIRODKAR: I'm going to hand it to 24 her to mark first. 25 (Exhibit 9 marked)</p>

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<p>1 Q. Okay.</p> <p>2 When before that?</p> <p>3 A. I can't remember. I can't recall.</p> <p>4 Q. Was -- would it have been within 2012?</p> <p>5 A. I'm sure, but I couldn't give you exact</p> <p>6 dates.</p> <p>7 Q. Now, if a day goes by when you work for</p> <p>8 Intertek but don't drive, do you still fill out a job</p> <p>9 voucher?</p> <p>10 A. Yes.</p> <p>11 Q. And how do you fill it out?</p> <p>12 A. The same way.</p> <p>13 Q. Putting 25 for the travel and 5 for lunch?</p> <p>14 A. For the incentive, yes.</p> <p>15 Q. Okay.</p> <p>16 Now, are there any times that you fill</p> <p>17 out the actual mileage instead of putting at -- \$25?</p> <p>18 A. Only when we drive out of town.</p> <p>19 Q. Okay.</p> <p>20 Now, on this same voucher, you wrote</p> <p>21 that you arrived at 5:30 in the morning and you left</p> <p>22 at 6:00, for a total of 12.5 hours.</p> <p>23 A. Yes.</p> <p>24 Q. Now, is that the total amount you worked on</p> <p>25 this day?</p>	<p>1 12 hours and 15 minutes; 12.5; 12; 6.5. Yeah.</p> <p>2 I work a different schedule; so, yeah,</p> <p>3 someti -- somewhere in December of oh -- of 2011.</p> <p>4 Q. (BY MS.SHIRODKAR) Uh-huh.</p> <p>5 A. Except for, in the instance when I went to</p> <p>6 Oklahoma --</p> <p>7 Q. Sure.</p> <p>8 A. -- I got 16 hours --</p> <p>9 Q. Uh-huh.</p> <p>10 A. -- on that. That's -- but that was an</p> <p>11 instance where I was driving plus working.</p> <p>12 And then there was another 16 hours on</p> <p>13 the next day.</p> <p>14 Q. Uh-huh.</p> <p>15 A. But that was a special instance where I was</p> <p>16 in Oklahoma. But normally, on any other day, now</p> <p>17 we're not allowed to write up any more than 12 hours</p> <p>18 per day.</p> <p>19 Q. And those are the instances where your</p> <p>20 supervisor tells you, "If you're working over 12,</p> <p>21 leave it for the next guy"?</p> <p>22 A. Yes.</p> <p>23 Q. And, so, looking at this December, 2011,</p> <p>24 trip to Oklahoma, where you -- you reported 16</p> <p>25 hours --</p>
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<p>1 A. Yes.</p> <p>2 Q. So, did you get paid in accordance with</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 Q. So, it does seem, in some instances, you</p> <p>6 did work over 12 hours and you did report it as --</p> <p>7 A. Yes.</p> <p>8 Q. -- over 12 hours?</p> <p>9 Did anyone come and tell you, in</p> <p>10 regards to this job voucher, "Hey, you need to make</p> <p>11 this 12 hours"?</p> <p>12 A. No. They changed that policy after the</p> <p>13 first of the year.</p> <p>14 Q. So --</p> <p>15 A. December, 2012.</p> <p>16 Q. So, they've only been telling you don't</p> <p>17 report over 12 hours of overtime -- I'm sorry -- over</p> <p>18 12 hours a shift since January of 2012?</p> <p>19 A. I'm going back. I can tell --</p> <p>20 MR. KENNEDY: Calls for speculation.</p> <p>21 A. You've got the time sheets here. Okay?</p> <p>22 Somewhere up until November, I was writing up 12 and</p> <p>23 a half, 12, 12 and a half; but then, after that, it</p> <p>24 seems like in November. So, maybe possibly even</p> <p>25 November of last year. Well, it was twelve fifteen,</p>	<p>1 A. Yes.</p> <p>2 Q. -- did you get compensated for those 16</p> <p>3 hours?</p> <p>4 A. Yes.</p> <p>5 Q. Did anyone tell you, "Hey, we're going to</p> <p>6 cut out four of these hours, put you back down to</p> <p>7 12"?</p> <p>8 A. No.</p> <p>9 Q. Okay.</p> <p>10 A. As a matter of fact, I was told to write up</p> <p>11 16 hours a day for those days.</p> <p>12 Q. And why was that?</p> <p>13 A. Because it was what they were charging back</p> <p>14 to the customer.</p> <p>15 Q. And did you, indeed, work 16 hours a day?</p> <p>16 A. I can't recall.</p> <p>17 Q. Now, let's look back -- sorry -- the page</p> <p>18 we were on. I think we were on the -- the first</p> <p>19 page, I think, 12.5 hours.</p> <p>20 And you said that that was the --</p> <p>21 those were the hours you reported that day?</p> <p>22 A. Yes.</p> <p>23 Q. And, so, this job voucher and others, those</p> <p>24 take into account all the hours you had worked?</p> <p>25 A. Yes.</p>

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<p>1 five days.</p> <p>2 Q. And, so, instead of reporting -- let's</p> <p>3 see -- that you spent \$10 for dinner, you just</p> <p>4 decided to do --</p> <p>5 A. I had totaled them up.</p> <p>6 Q. -- all of the meal receipts --</p> <p>7 A. I had totaled them up on a calculator,</p> <p>8 added them together, and put them under "Other."</p> <p>9 Q. And you weren't getting the flat \$5,</p> <p>10 because you were traveling outside of the Houston</p> <p>11 area --</p> <p>12 A. Yes.</p> <p>13 Q. -- is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And for the five ninety-six, that is,</p> <p>16 again, because of traveling outside of the Houston</p> <p>17 area --</p> <p>18 A. Yes.</p> <p>19 Q. -- and not just putting down...</p> <p>20 (Telephone interruption)</p> <p>21 MR. KENNEDY: You're supposed to be</p> <p>22 napping right now. That was your wake-up alarm.</p> <p>23 THE WITNESS: No. That's -- somebody</p> <p>24 called me. I don't know who.</p> <p>25 Q. (BY MS.SHIRODKAR) You reported 596 miles</p>	<p>1 A. Yes. I was dispatching that day.</p> <p>2 Q. And was that a regular occurrence or kind</p> <p>3 of a once-in-a-while thing?</p> <p>4 A. It was -- I mean, I fill in for dispatchers</p> <p>5 all the time.</p> <p>6 Q. Okay.</p> <p>7 Now, why did you write down \$5 for</p> <p>8 lunch and 25 for travel?</p> <p>9 A. Dispatchers receive that same incentive</p> <p>10 pay.</p> <p>11 Q. Now, if you were working as a dispatcher,</p> <p>12 did that mean you didn't have to do any driving that</p> <p>13 day?</p> <p>14 A. Pretty much.</p> <p>15 Q. So, if you weren't driving, then, why did</p> <p>16 you seek out that 25-dollar allowance?</p> <p>17 MR. KENNEDY: Ob -- objection.</p> <p>18 Misstates prior testimony in terms of "seeking out."</p> <p>19 He's told you that's what he was told to do.</p> <p>20 Q. (BY MS.SHIRODKAR) You can answer.</p> <p>21 A. I was told to do that. We were told to,</p> <p>22 you know, put down our \$5 for meal, \$25 a day</p> <p>23 incentive. The dispatchers now do the same thing.</p> <p>24 They receive 20 -- they receive the same -- same</p> <p>25 incentive pay that we receive every day.</p>
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<p>1 instead of just the flat amount?</p> <p>2 A. Yes.</p> <p>3 Q. And how did you come up with the figure</p> <p>4 of -- under "Travel," where it says, "Charge," the</p> <p>5 \$178 and seven -- and 80 cents? Sorry.</p> <p>6 A. I multiplied the five ninety-six times 30</p> <p>7 cents.</p> <p>8 Q. And, so, this was a reimbursement just --</p> <p>9 THE WITNESS: Let me turn this off.</p> <p>10 MR. KENNEDY: Sure.</p> <p>11 Q. (BY MS.SHIRODKAR) And that was a</p> <p>12 reimbursement just for miles; is that correct?</p> <p>13 A. The one seventy-eight? Yes.</p> <p>14 Q. Okay.</p> <p>15 Now, if you turn the -- to the page</p> <p>16 marked Intertek 13560.</p> <p>17 A. Sixty.</p> <p>18 Q. And that's the job voucher for the week</p> <p>19 ending 12-3-11.</p> <p>20 A. Yes.</p> <p>21 Q. Are you on there?</p> <p>22 A. Yes.</p> <p>23 Q. And if you look at the bottom half of that</p> <p>24 sheet, you'll see that, under "Details," it says,</p> <p>25 "Dispatch."</p>	<p>1 Q. And who told you that?</p> <p>2 A. Every dispatcher's told me that --</p> <p>3 Q. Okay.</p> <p>4 A. -- they receive the same thing.</p> <p>5 Q. Now, did someone tell you specifically,</p> <p>6 "Robert, when you're working as a dispatcher, make</p> <p>7 sure you submit a job voucher for these</p> <p>8 reimbursements"?</p> <p>9 A. Yeah. I mean, our supervisors.</p> <p>10 Everybody -- all the other dispatchers receive the</p> <p>11 same incentive pay whether they're working in the</p> <p>12 field or sitting at the office.</p> <p>13 Q. Okay.</p> <p>14 Now, turn to Intertek 13564; and</p> <p>15 that's the job voucher for the week ending</p> <p>16 December 17, 2011.</p> <p>17 A. Oklahoma inventory?</p> <p>18 Q. Yes.</p> <p>19 And tell me why you scratched out the</p> <p>20 5- and 25-dollar charge for that day.</p> <p>21 A. Because I had started to fill it out as</p> <p>22 I -- normal habit, and then I realized that I had to</p> <p>23 itemize all that. So, then I turned it in on the</p> <p>24 19th, which was -- I was told was okay. Even though</p> <p>25 that that wasn't part of the Oklahoma trip, I put the</p>

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<p>1 Earlier, Intertek's lawyer handed you 2 a copy of your statement, your declaration that you 3 signed. 4 Do you remember coming into my office 5 and reading that statement -- 6 A. Yes. 7 Q. -- before you signed it? 8 A. Yes. 9 Q. Okay. 10 Do you remember reading the whole 11 statement? And we're talking about Exhibit 12. 12 A. I remember, the day that I signed it, I 13 remember reading through it. But, today, I don't 14 remember it. I've been up for a while. 15 Q. Right. 16 A. But I remember reading over it with you on 17 the day that I signed it, but I don't remember -- 18 right now, I've been up for a while. I don't 19 remember signing it -- 20 Q. Okay. 21 A. -- that day. I may have misunderstood the 22 question. 23 Q. Robert, when you add the amount categorized 24 as mileage on the mileage reimbursement check with 25 the amount categorized as an auto allowance, was that</p>	<p>1 A. Yes. 2 Q. On those dates, did Intertek still pay you 3 the 25-dollar what you've called incentive pay? 4 A. Yes. 5 Q. What was the -- the highest number of miles 6 that you've driven, work-related, on any given day? 7 A. Other than out of town? 8 Q. Right. I'm sorry. 9 On a day that you are driving only in 10 the greater Houston area -- 11 A. Okay. 12 Q. -- and you're getting the 25-dollar 13 payment, what is that -- the most number of miles 14 that you've driven in a single day related to the 15 job? 16 A. Seventy miles. 17 Q. How many miles is it from your home to the 18 Intertek main office, where you reported on a regular 19 basis? 20 A. It depends on what route I go. Fifteen to 21 18 miles. 22 Q. So, round trip -- 23 A. One way. 24 Q. I'm sorry? Go ahead. 25 A. One way.</p>
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<p>1 total amount more than your actual expenses that you 2 incurred related to your vehicle? 3 A. Yes. 4 Q. Was it substantially more? 5 A. Yes. 6 Q. Was it often about double the amount of 7 your actual auto-related expenses? 8 A. Probably. 9 Q. Did the miles that you drove, related to 10 your job, vary from day to day? 11 A. Yeah. 12 Q. When you told us earlier that you drove an 13 average of 45 miles per day, how secure are you as to 14 the accuracy of that number? 15 A. Not really. I mean, it could be less. 16 Some days it was none. 17 Q. How did you come up with that number? 18 A. Just a ballpark guess. 19 Q. Are there some days where you drove less 20 than 20? 21 A. There was a lot of days I drove less than 22 20. 23 Q. Were there days when you were assigned as 24 dispatcher and you didn't drive at all related to the 25 job?</p>	<p>1 Q. That's one way? 2 A. Yeah. 3 Q. Okay. 4 So, round trip, 30 to 36 miles? 5 A. Yeah, I guess. 6 Q. And if you work five days per week and make 7 that round trip, are you driving, from home to work, 8 between a hundred and fifty and a hundred and 9 eighty miles? 10 A. Yeah, I guess so. 11 Q. Does that include -- the hundred and fifty 12 to hundred and eighty, does that include your 13 personal miles driven on the weekends? 14 A. No. 15 Q. So, when you add those miles up, is that 16 more than -- or does that sound like an accurate 17 number of miles -- personal miles that you drove per 18 week, the hundred and fifty to hundred and 19 eighty plus -- 20 A. Yeah. 21 Q. -- your week miles? 22 A. Yeah, that would be more accurate, I guess. 23 Q. All right. 24 And I presume, sometimes, you drove 25 more, sometimes less?</p>

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